

REMARKS**Overview**

Claims 1-10, 17 and 18 are pending in this application. The present response is an earnest effort to traverse all rejections such that the present application is in proper form for immediate allowance. Consideration and passage to issuance is respectfully requested.

Issues Under 35 U.S.C. § 103

Claims 1, 2, 4-9, 17 and 18 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U. S. Patent No. 5,721,783 to Anderson in view of U. S. Patent No. 5,664,012 to Chen. This rejection is respectfully traversed.

Anderson is directed towards a hearing aid with a wireless remote processor (Abstract). Anderson discloses that there is an earpiece and then there is a remote processor unit (RPU) which processes information received from the earpiece (Figure 1). It is noted that one of the primary objects of the Anderson invention is to remove audio signal enhancement functions from the earpiece and place them in an RPU (column 2, lines 19-39). Claim 1 specifically requires "an earpiece adapted to be inserted into the external auditory canal of the user and having . . . a speech processor operatively connected to the one or more sensors." Contrary to the Examiner's interpretation of Anderson, Anderson does not disclose an earpiece having a speech processor. The Examiner cites to Figure 1 for this proposition, indicating that element 13 references a speech processor. This is not correct. Element 13 of Figure 1 of Anderson merely references an RF transceiver and not a speech processor. Therefore, Anderson does not disclose all that the Examiner purports it to and the Examiner should withdraw the rejection to claim 1 on this basis.

The Examiner recognizes that Anderson does not disclose a cradle for supporting a host device (Office Action, page 3, first full paragraph). Therefore, the Examiner relies upon Chen. Chen discloses a hands free device for a portable phone (Abstract). Contrary to the Examiner's interpretation of Chen, Chen does not disclose a "cradle comprising . . . a second transmitter and a second receiver" as required by claim 1. It appears that the Examiner is considering the host device or phone of Chen as a part of the cradle. The cradle supports the host device, but as required by claim 1 "the host device [is] removably mounted in the cradle." Therefore, claim 1 makes clear that the host device and the cradle are separate structures. The cradle of Chen does not include a transmitter and receiver. Therefore, this rejection must be withdrawn on this basis as well.

Another independent reason for withdrawing this rejection to claim 1 is that the Examiner has failed to provide any proper motivation or suggestion to combine these references. The Examiner's purported motivation or suggestion to combine is to "increase the convenience of hands free communication" (Office Action, page 3, first full paragraph, last sentence). The Examiner points to no motivation or suggestion to combine the references within the references themselves and offers no convincing line of reasoning in order to combine the references in the manner specified. It appears that the Examiner is merely relying upon improper hindsight gleaned from the invention itself, using the Applicant's structure as a template and selecting elements from references in an attempt to fill the gaps. Therefore, it is respectfully submitted that this rejection should be withdrawn. As claims 2, 4-9 depend from claim 1, it is respectfully submitted these rejections should also be withdrawn given the deficiencies of Anderson and Chen.

With respect to claim 17, claim 17 requires that the earpiece have "a speech processor". As previously explained, neither Anderson nor Chen discloses an earpiece having a speech processor. Therefore, this rejection to claim 17 must be withdrawn on that basis. Claim 17 also requires "a second receiver disposed within a cradle". Neither Anderson nor Chen discloses this limitation, therefore this rejection must be withdrawn on that basis as well. Furthermore, as previously explained, there is no proper motivation or suggestion to combine Anderson and Chen in the matter specified by the Examiner. Therefore, this rejection to claim 17 must be withdrawn for this reason as well. As claim 18 depends from claim 17, it is respectfully submitted that this rejection should be withdrawn as well.

Claim 10 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson and Chen in view of U. S. Patent No. 6,181,801 to Puthuff et al. Claim 10 depends from claim 1. Puthuff does not remedy the deficiencies in the teachings of Anderson and Chen. Therefore, this rejection to claim 10 must be withdrawn.

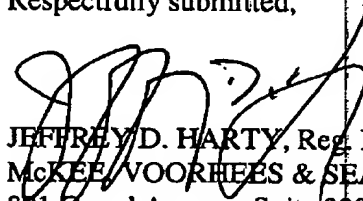
Claim 3 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson and Chen in view of U. S. Patent No. 5,917,698 to Viallet. Claim 3 depends from claim 1. Viallet does not remedy the deficiencies in the teachings of Anderson and Chen. Therefore, this rejection to claim 3 must also be withdrawn.

Conclusion

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any

additional fees to Deposit Account No. 26-0084.

Respectfully submitted,



JEFFREY D. HARTY, Reg. No. 40,639
MCKEE VOORHEES & SEASE, P.L.C.
801 Grand Avenue, Suite 3200
Des Moines, Iowa 50309-2721
Phone No: (515) 288-3667
Fax No: (515) 288-1338
CUSTOMER NO: 22885

Attorneys of Record

- bja -